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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,664	09/17/2001	John R. Ramun	2005-011339	9081

7590 03/24/2003
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EXAMINER

BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,664

Applicant(s)

RAMUN, JOHN R.

Examiner

Victor Batson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-30 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15 and 31-34 is/are rejected.
- 7) ☒ Claim(s) 10 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the combination bucket and three-tine grapple (claim 4), **and combination** bucket and four-tine grapple (claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3-5 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose a three-tine grapple or four-tine grapple that includes "at least one bucket" as set forth in claims 4 & 5, which depend from claim 2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,3,6,7,8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ramun (4,799,852).

4^{le} Ramun discloses a demolition equipment system comprising a plurality of equipment bases, and a plurality of claw tines 21 as shown in figure 5 and described in the specification. Concerning claim 3, bucket 14 is considered one claw tine, and the combination of parallel tines 21 is considered the opposing tine.

4. Claims 1,2,3,4,5 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Kirkpatrick et al. (6,155,619).

Kirkpatrick et al. discloses a demolition equipment system comprising a plurality of equipment bases, and a plurality of claw tines 50, including four claw tines directed toward each other and positioned 90 degrees apart. Kirkpatrick et al. further teaches that it is known to form a grapple with 3 tines (col 1 lines 16-18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9,11-15,31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramun (4,799,852).

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Ramun discloses a demolition equipment system as disclosed previously, but lacks specifying the cylinder length to pivot point distance ratio being in the claimed range of between 0.7 and 0.9.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the demolition equipment system of Ramun with the claimed range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Similarly, concerning the claimed ranges set forth in claims 13-15,32,33, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the demolition equipment system of Ramun with the claimed range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Allowable Subject Matter

6. Claims 10,16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 17-30 are allowed.

Response to Arguments

Applicant's arguments have been considered, but are not persuasive. Applicant argues against the drawing objections and 112 first paragraph rejection since both the

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specification and drawings disclose using a bucket base or a grapple base. The examiner agrees that both the specification and drawings provide a basis for either a bucket base with two grapples or a grapple base with two, three or four tines. However neither the specification nor drawings provides proper basis for **a bucket in combination with** claw tines positioned 180 degrees from each other (claim 3), **a bucket in combination with** a three-tine grapple (claim 4) or **a bucket in combination with** a four-tine grapple (claim 5). Since claim 2 positively claims a bucket and claims 3-5 depend from claim 2, claims 3-5 are positively claiming a bucket in combination the specific tine structures, which is not shown or described. The examiner suggests rewriting claims 3-5 and having them depend from a claim that sets forth a grapple base and not a bucket.

Applicant argues that Ramun '852 does not disclose a plurality of equipment basis forming at least a part of a distinct demolition equipment unit. The examiner disagrees and notes that the bucket being considered a tine is only regarding claim 3. Regarding claim 1, the tines 21 are considered the claimed plurality of claw tines and are removably attached to their respective equipment base 18 thereby meeting the limitations of claim 1.

Applicant argues that the angular rotation of tine shown in Ramun '852 is less than 70 degrees, however a review of Ramun '852 does not support this argument. Neither does Ramun support applicant's argument that the structure cannot open beyond 70 degrees. These appear to be applicant's opinions which are not

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substantiated with facts. It is noted however that claim 11 is no longer rejected under USC 102(b), but instead rejected under 103(a) as being obvious.

Applicant's arguments regarding Kirkpatrick et al. are moot as Kirkpatrick et al. the examiner was attempting to use Kirkpatrick et al. in a 102(e) rejection and not in an obvious type 103(a) rejection in combination with Ramun '852. A new 102(e) rejection has been set forth above, and accordingly the present office action has been made non-final.

Applicant argues that the 103(a) obvious rejection of claims 9,12-15,31-34 is not proper since the claimed limitations are not obvious and are more than mere optimization. The examiner disagrees, as applicant has not disclosed that the claimed limitations provide any unexpected results or solves any stated problem, and it appears as if the limitations are an optimization of the prior art claw.

Inquiries

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1115.

March 21, 2003

A handwritten signature in cursive script, appearing to read "Victor Batson".

Victor Batson
Primary Examiner
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